

## § 960.607

### § 960.607 Assuring resident compliance.

(a) *Third-party certification.* If qualifying activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide signed certification to the PHA by such other organization that the family member has performed such qualifying activities.

(b) *PHA notice of noncompliance.* (1) If the PHA determines that there is a family member who is required to fulfill a service requirement, but who has violated this family obligation (non-compliant resident), the PHA must notify the tenant of this determination.

(2) The PHA notice to the tenant must:

(i) Briefly describe the noncompliance;

(ii) State that the PHA will not renew the lease at the end of the twelve month lease term unless:

(A) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance, and in fact cure such noncompliance in accordance with such agreement; or

(B) The family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

(iii) State that the tenant may request a grievance hearing on the PHA determination, in accordance with part 966, subpart B of this chapter, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of such determination.

(c) *Tenant agreement to comply with service requirement.* If the tenant or another family member has violated the service requirement, the PHA may not renew the lease upon expiration of the term unless:

(1) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over

## 24 CFR Ch. IX (4-1-00 Edition)

the twelve-month term of the new lease, and

(2) All other members of the family who are subject to the service requirement are currently complying with the service requirement or are no longer residing in the unit.

### § 960.609 Prohibition against replacement of PHA employees.

In implementing the service requirement under this subpart, the PHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement.

## PART 963—PUBLIC HOUSING— CONTRACTING WITH RESIDENT- OWNED BUSINESSES

### Subpart A—General

Sec.

963.1 Purpose.

963.3 Applicability.

963.5 Definitions.

### Subpart B—Contracting with Resident-Owned Businesses

963.10 Eligible resident-owned businesses.

963.12 Alternative procurement process.

AUTHORITY: 42 U.S.C. 1437 and 3535(d).

SOURCE: 57 FR 20189, May 11, 1992, unless otherwise noted.

### Subpart A—General

#### § 963.1 Purpose.

The purpose of this part is to enhance the economic opportunities of public housing residents by providing public housing agencies with a method of soliciting and contracting with eligible and qualified resident-owned businesses (as defined in this part) for public housing services, supplies, or construction. The contract award method provided by this part is based on the established procurement procedures set forth in 24 CFR 85.36, with solicitation as provided by these procedures limited to resident-owned businesses. The contract award method provided by this

part is not a requirement. It is an alternative procurement method available to public housing agencies, subject to the conditions set forth in this part, and subject to permissibility under State and local laws.

### § 963.3 Applicability.

The policies and procedures contained in this part apply to public housing developments that are owned by public housing agencies (PHAs) and that are covered by Annual Contributions Contracts (ACC) with the Department. Public housing contracts eligible to be awarded under the alternative procurement process provided by this part are limited to individual contracts that do not exceed \$1,000,000. Resident-owned businesses eligible to participate in the alternative procurement process are limited to those that meet the eligibility requirements of § 963.10. The policies and procedures contained in this part are consistent with the objectives of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and similar Federal requirements imposed on public housing programs. (See 24 CFR 941.208(a) and 24 CFR 968.110(a)).

[57 FR 20189, May 11, 1992, as amended at 59 FR 33895, June 30, 1994]

### § 963.5 Definitions.

The terms *HUD* and *Public housing agency (PHA)* are defined in 24 CFR part 5.

*Act.* The U.S. Housing Act of 1937 (42 U.S.C. 1437).

*Alternative procurement process.* The alternative method of public housing contract award available to public housing agencies and eligible resident-owned businesses under the conditions set forth in this part.

*Annual Contributions Contract (ACC).* See definition in 24 CFR 968.105.

*Certification.* A written assertion based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General, and the public, which assertion shall be deemed to be accurate for purposes of this part, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

*Contract or public housing contract.* Any contract awarded by a PHA for services, supplies, or construction necessary for the development, operation, modernization, or maintenance of public housing.

*Management officials.* The individuals who possess the power to make the day-to-day, as well as major, decisions on matters of management, policy, and operations of the resident-owned business.

*Principal.* An owner, partner, director, or management official of the resident-owned business with the power and authority to represent the business and to execute contract, leases, agreements, and other documents on behalf of the business.

*Public housing or public housing development.* Any public housing development which is owned by a Public Housing Agency (PHA) and is receiving funds under an Annual Contribution Contract (ACC).

*Public housing resident.* Any individual who resides in public housing as a signatory on a public housing lease, or as a member of the family of the individual(s) who is the signatory on the public housing lease.

*Resident-owned business.* Any business concern which is owned and controlled by public housing residents. (The term "resident-owned business" includes sole proprietorships.) For purposes of this part, "owned and controlled" means a business:

- (1) Which is at least 51 percent owned by one or more public housing residents; and
- (2) Whose management and daily business operations are controlled by one or more such individuals.

All securities which constitute ownership or control of a corporation for purposes of establishing the business as a resident-owned business shall be held directly by the public housing residents. No securities held in trust, or by any guardian for a minor, shall be considered as held by the public housing resident in determining the ownership or control of a corporation.

[57 FR 20189, May 11, 1992, as amended at 61 FR 5215, Feb. 9, 1996]

**Subpart B—Contracting With Resident-Owned Businesses**

**§ 963.10 Eligible resident-owned businesses.**

To be eligible for the alternative procurement process provided by this part, a business must meet the following requirements, and must submit evidence to the PHA, in the form described below, or as the PHA may require, that shows how each requirement has been met.

(a) *Legally formed business.* The business shall submit certified copies of any State, county, or municipal licenses that may be required of the business to engage in the type of business activity for which it was formed. Where applicable (as for example, in the case of corporations), the business also shall submit a certified copy of its corporate charter or other organizational document that verifies that the business was properly formed in accordance with State law.

(b) *Resident-owned business.* The business shall submit a certification that it is a resident-owned business as defined by this part. The business shall disclose to the PHA all owners of the business, and each owner's percentage of ownership interest in the business. The business also shall disclose all individuals who possess the power to make the day-to-day, as well as major, decisions on matters of management, policy, and operations (management officials). The business shall identify all owners and management officials who are not public housing residents, and shall disclose any relationship that these owners and officials may have to a business (resident- or non-resident-owned) engaged in the type of business activity with which the resident-owned business is engaged. For purposes of this part, "relationship" means employment by, or having an ownership interest in, a business. The business also shall submit such evidence as the PHA may require to verify that the owner or owners identified as public housing residents reside within public housing of the PHA.

(c) *Responsibility to complete contract.* The business shall submit evidence sufficient to demonstrate to the satisfaction of the PHA that the business has

the ability to perform successfully under the terms and conditions of the proposed contract. Consideration will be given to various factors, including but not limited to those identified in 24 CFR 85.36(b)(8) and also to such matters as proof of completion of courses in business administration or financial management, and proof of job training or apprenticeship in the particular trade, business, profession, or occupation.

(d) *Limitation on alternative procurement contract awards.* The business shall submit a certification as to the number of contracts awarded, and the dollar amount of each contract award received, under the alternative procurement process provided by this part. A resident-owned business is not eligible to participate in the alternative procurement process provided by this part if the resident-owned business has received under this process one or more contracts with a total combined dollar value of \$1,000,000.

[57 FR 20189, May 11, 1992, as amended at 59 FR 33895, June 30, 1994]

**§ 963.12 Alternative procurement process.**

(a) *Method of procurement.* In contracting with resident-owned businesses, the PHA shall follow the applicable method of procurement as set forth in 24 CFR 85.36(d), with solicitation limited to resident-owned businesses. Additionally, the PHA shall ensure that the method of procurement conforms to the procurement standards set forth in 24 CFR 85.36(b).

(b) *Contract awards.* Contracts awarded under this part shall be made only to resident-owned businesses that meet the requirements of § 963.10, and that comply with such other requirements as may be required of a contractor under the particular procurement and the Department's regulations. An award shall not be made to the resident-owned business if the contract award exceeds the independent cost estimate required by 24 CFR 85.36(f), and the price normally paid for comparable supplies, services, or construction in the project area.

(c) *Contract requirements.* Any contract entered into between a PHA and a resident-owned business under this

part shall comply with: the contract provisions of 24 CFR 85.36(i); the provisions of 24 CFR 85.36(h), 24 CFR 968.240(d) or 24 CFR 968.335(c)(1) governing bonding requirements, where applicable; and such other contract terms that may be applicable to the particular procurement under the Department's regulations. In addition to the recordkeeping requirements imposed by 24 CFR 85.36(i), the PHA also shall maintain records sufficient to detail the significant history of the procurement made under this part. These records will include, but are not necessarily limited to the following: The independent cost estimate and comparable price analysis as required by paragraph (b) of this section; the basis for contractor selection, including documentation concerning the eligibility of the selected resident-owned business under §963.10; and the basis for determining the reasonableness of the proposed contract price.

## **PART 964—TENANT PARTICIPATION AND TENANT OPPORTUNITIES IN PUBLIC HOUSING**

### **Subpart A—General Provisions**

- Sec.  
 964.1 Purpose.  
 964.3 Applicability and scope.  
 964.7 Definitions.  
 964.11 HUD policy on tenant participation.  
 964.12 HUD policy on the Tenant Opportunities Program (TOP).  
 964.14 HUD policy on partnerships.  
 964.15 HUD policy on resident management.  
 964.16 HUD role in activities under this part.  
 964.18 HA role in activities under subparts B & C.  
 964.24 HUD policy on FIC Program.  
 964.30 Other Program requirements.

### **Subpart B—Tenant Participation**

- 964.100 Role of resident council.  
 964.105 Role of the jurisdiction-wide resident council.  
 964.115 Resident council requirements.  
 964.117 Resident council partnerships.  
 964.120 Resident management corporation requirements.  
 964.125 Eligibility for resident council membership.  
 964.130 Election procedures and standards.  
 964.135 Resident involvement in HA management operations.  
 964.140 Resident training.

- 964.145 Conflict of interest.  
 964.150 Funding tenant participation.

### **Subpart C—Tenant Opportunities Program**

- 964.200 General.  
 964.205 Eligibility.  
 964.210 Notice of funding availability.  
 964.215 Grant agreement.  
 964.220 Technical assistance.  
 964.225 Resident management requirements.  
 964.230 Audit and administrative requirements.

### **Subpart D—Family Investment Centers (FIC) Program**

- 964.300 General.  
 964.305 Eligibility.  
 964.308 Supportive services requirements.  
 964.310 Audit/compliance requirements.  
 964.315 HAs role in activities under this part.  
 964.320 HUD Policy on training, employment, contracting and subcontracting of public housing residents.  
 964.325 Notice of funding availability.  
 964.330 Grant set-aside assistance.  
 964.335 Grant agreement.  
 964.340 Resident compensation.  
 964.345 Treatment of income.  
 964.350 Administrative requirements.

### **Subpart E—Resident Board Members**

- 964.400 Purpose.  
 964.405 Applicability.  
 964.410 Additional definitions.  
 964.415 Resident board members.  
 964.420 Resident board member may be elected.  
 964.425 Small public housing agencies.  
 964.430 Nondiscrimination.

AUTHORITY: 42 U.S.C. 1437, 1437d, 1437g, 1437l, 1437r, 1437t, and 3535(d).

SOURCE: 59 FR 43636, Aug. 24, 1994, unless otherwise noted.

### **Subpart A—General Provisions**

#### **§ 964.1 Purpose.**

The purpose of this part is to recognize the importance of resident involvement in creating a positive living environment and in actively participating in the overall mission of public housing.

#### **§ 964.3 Applicability and scope.**

(a) The policies and procedures contained in this part apply to any PHA that has a Public Housing Annual Contributions Contract (ACC) with HUD. This part, except for subpart E, does